



Ministry of Health Aide Memoire

To: Hon Tariana Turia, Associate Minister of Health

Date: 2 July 2012

Plain packaging of tobacco products – Cabinet Business Committee paper

Background

1. On 4 April 2012, Cabinet Social Policy Committee agreed in principle to introduce a plain packaging regime in alignment with Australia, subject to consultation.
2. Your paper seeking approval to release the consultation document on plain packaging of tobacco products goes to CBC at 4.30pm today.
3. The paper also reports back as requested with an update on the Australian legal challenges and the newly published systematic review of the evidence produced in the UK as part of their recent consultation process.

Talking Points

4. The consultation document for approval is attached to the paper. It is also proposed to release the Regulatory Impact Statement considered by Cabinet in April as part of the consultation. MFAT are still considering whether some small sections of the RIS discussing trade agreement implications may need to be withheld on grounds consistent with the Official Information Act.
5. The consultation is set to run for 75 days from 23 July to 5 October. It will include both domestic stakeholders and trade partners, to assist with WTO processes. The results of the consultation process will be evaluated and reported back by 30 November to inform the final decision-making on whether to proceed.
6. In Australia challenges to the plain packaging regime are progressing:
 - a) A decision whether plain packaging breaches the Australian Constitution is expected soon [withheld s6(b)(i) & s9(2)(h)]
However, it is a domestic case and specific to Australia.
 - b) Tobacco producing countries Ukraine, Honduras, and (soon) the Dominican Republic are challenging Australia's plain packaging scheme through the WTO. New Zealand is a third party to the initial dispute consultations. This is only an early stage in the possible process. The bilateral investment arbitration with Philip Morris Asia is also progressing slowly.
7. Officials consider that good arguments can be made for plain packaging to be introduced in a manner consistent with the WTO agreements and other bilateral trade and investment agreements. However, final outcomes of the disputes against Australia may take several months or even years to emerge.
8. The United Kingdom has not reached the stage of agreeing in principle to proceed with plain packaging, but it is running a public consultation from 16 April to 10 July 2012. This has included what is now the most comprehensive published assessment of the evidence on plain packaging. This review confirms the strong evidence that plain packaging would be effective in reducing the appeal of tobacco products and boosting the impact of health warnings.
9. Launching the consultation document is likely to generate interest both in New Zealand and internationally, including from news media. Tobacco companies in New Zealand have begun to voice their opposition to plain packaging in advance of the consultation, but appear to have softened their threats of legal action.

Contact people: Matthew Everett (*withheld s9(2)(a)*), Chris Laurenson (*withheld s9(2)(a)*)